

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA
(Department of Housing and Urban
Development),

Plaintiff

v.

JOHN DOE and RICHARD DOE, as
those unknown persons who may be
the holders of the lost mortgage
note or have any interest in
this proceeding,

Defendants

CIVIL NO. 10-1453 (JP)

DEFAULT JUDGMENT

The Court has before it Plaintiff's motion for default judgment (No. 7) against Defendants. The motion is **GRANTED**. Upon Plaintiff's motion for judgment, and it appearing from the records of the above-entitled case that default was entered by the Clerk of this Court against Defendants on September 16, 2010 (No. 8) for their failure to plead or file an answer to the complaint or otherwise appear in the above cause, Plaintiff is entitled to a judgment by default.

Defendants in the instant case were duly served by publication pursuant to the Order of this Court and notice was published in the newspaper on June 24 and 30, 2010, and on July 7, 14, 21 and 28, 2010, per the verified statement filed with the Clerk of this Court.

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The Court finds that the requirements of Rule 4 of the Rules of Civil Procedure of Puerto Rico and Article 82 of the Mortgage Law have been met. Pursuant to 28 U.S.C. § 1655, Defendants were ordered to appear and answer the complaint. Since the Defendants have not appeared, the Court makes the following findings of facts and conclusions of law.

I. FINDINGS OF FACT

1. On or before August 29, 1969, Manuel Echevarría-Martínez and Graciela Romero, received from the United States of America, acting through the United States Department of Housing and Urban Development, a loan in the amount of \$22,600.00 on the property described at paragraph 3 below.

2. In evidence of the money lent by Plaintiff United States of America, Manuel Echevarría-Martínez and Graciela Romero executed a promissory note dated August 29, 1969 in the amount of \$22,600.00 at 7.5% interest rate, payable to the United States Department of Housing and Urban Development.

3. To secure the payment of said promissory note, Manuel Echevarría-Martínez and Graciela Romero executed a First Mortgage in favor of the Plaintiff United States of America, on August 29, 1969, by First Mortgage Deed No. 38 before Notary Public Arnaldo P. Cabrera, over the following described property:

URBANA: Solar marcado con el Núm. 551 del Bloque M-17 A antes, ahora Núm. 15 de la Calle Campo Bello del plano de inscripción de la URBANIZACIÓN LUIS MUÑOZ RIVERA en el

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Barrio Los Frailes de Guaynabo, Puerto Rico, con un área de 407.00 metros cuadrados. En lindes por el Norte, en 17.70 metros, con Caribbean Homes Construction Corporation; por el Sur, en 14.87 metros, con la Calle "H" antes, hoy con la Calle Campo Bello; por el Este, en 12.20 metros, con el solar Núm. 553 y en 15.20 metros, con el solar Núm. 552; y por el Oeste, en 25.00 metros, con el solar Núm. 550. En dicho solar enclava una casa de concreto dedicada a vivienda.

4. The first mortgage deed executed in favor of the Plaintiff was duly recorded in the Registry of Property of Guaynabo, at page 163, volume 289, property number 10968, 10th inscription.

5. The original promissory note of \$22,600.00 dated August 29, 1969, while in possession and under the custody of the United States Department of Housing and Urban Development, was lost, misplaced or destroyed.

6. The indebtedness assumed by Manuel Echevarría-Martínez and Graciela Romero to the Plaintiff United States of America has been paid in full.

II. CONCLUSIONS OF LAW

Articles 132 and 134 of the Mortgage Law provide that when a mortgage note has been lost the mortgage may be canceled by the Registrar of Property only by judicial decree obtained by a court of competent jurisdiction in a civil proceeding authorized by the Code of Civil Procedure of Puerto Rico, in which the court decrees that the mortgage obligation is extinguished. P.R. Laws Ann. tit. 30, §§ 2456 and 2458.

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THE COURT HEREBY ORDERS:

1. The Court enters Judgment against the Defendants herein declaring that the aforementioned mortgage obligation is extinguished.

2. The promissory note in the amount of \$22,600.00 on the unpaid balance executed by Manuel Echevarría-Martínez and Graciela Romero on August 29, 1969, the possession of whomsoever it may now be or become in the future, is hereby declared null and void, and therefore canceled.

3. The Registrar of the Property of Guaynabo, Puerto Rico, shall cancel and nullify the real estate voluntary mortgage executed by Manuel Echevarría-Martínez and Graciela Romero to secure the payment of the promissory note, above described constituted by the terms of Voluntary Mortgage Deed No. 38 executed before Notary Public Arnaldo P. Cabrera on August 29, 1969, and which was recorded in the Registry of Property of Guaynabo, Puerto Rico, at page 163, volume 289 of Guaynabo, Puerto Rico, property number 10968, 10th inscription.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 22nd day of September, 2010.

s/Jaime Pieras, Jr.
JAIME PIERAS, JR.
U.S. SENIOR DISTRICT JUDGE